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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,380	11/25/2003	August Karl Meyer	038675/270589	4624

826 7590 05/04/2007  
ALSTON & BIRD LLP  
BANK OF AMERICA PLAZA  
101 SOUTH TRYON STREET, SUITE 4000  
CHARLOTTE, NC 28280-4000

EXAMINER
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EDWARDS, NEWTON O

ART UNIT	PAPER NUMBER
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1774

MAIL DATE	DELIVERY MODE
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05/04/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10/722380

EXAMINER
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ART UNIT	PAPER
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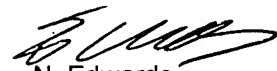
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Commissioner for Patents

Supplemental Examiner Answer.

  
N Edwards  
Primary Examiner  
Art Unit: 1774

1. Pursuant to the remand under 37 CFR 41.50(a)(1) by the Board of Patent Appeals and Interferences on 3/27/07 **for further consideration of a rejection**, a supplemental Examiner's Answer under 37 CFR 41.50(a)(2) is set forth below:

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 31,39,40,41,42,44,11,12,13,26,27,and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magill (US 6,855,422) alone or optionally taken with Quon (US 4,623,579).

Magill teaches a fabric (which embraces woven, knitted and non-woven) made from a multi-component sheath core fiber of polyamide such as nylon6, for example. Magill further teaches the core and sheath can contain a colorant (which is generic and includes phosphorescent colorant and a fluorescent colorant) or fluorescent whitening agent (is another name for a fluorescent colorant). See col.4 Lines 28-31, claim 9, col.7 lines 40-43, and fig 2, for example. Magill teaching of a colorant is generic and includes luminescent colorant and non-luminescent colorant. Magill still further teaches the sheath core fiber may comprise virtually any percentage by weight of the core member and the sheath member such a cross sectional area of about 10 % to about 90 % by weight. See col. 9 lines 50-55 and col.23 lines 20-31, for example. Magill yet still further

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teaches the multi-component sheath core fiber can be staple fibers (to form web) or woven or knitted (which is a continuous fiber) in col.25 lines 8-24.

Magill reference discloses ranges for the claimed components that encompass and substantially overlap the claimed range which produces a reasonable expectation of success that Magill's multi-component sheath core fiber meets the claimed invention. Quon is cited to show that a colorant as disclosed in Magill is generic and includes phosphorescent colorant and fluorescent colorant.

Given the teaching of the references, it would have been obvious to one having ordinary skill in the art to have produced a sheath core fiber with a core within the claimed range in view of Magill alone or optionally taken with Quon.

4. The appellant must within **TWO MONTHS** from the date of the supplemental examiner's answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the rejection for which the Board has remanded the proceeding:

(1) **Reopen prosecution.** Request that prosecution be reopened before the examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit, or other evidence. Any amendment, affidavit, or other evidence must be relevant to the issues set forth in the remand or raised in the supplemental examiner's answer. Any request that prosecution be reopened will be treated as a request to withdraw the appeal. See 37 CFR 41.50(a)(2)(i).

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. If such a reply brief is accompanied by any

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amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened under 37 CFR 41.50(a)(2)(i). See 37 CFR 41.50(a)(2)(ii).

Extensions of time under 37 CFR 1.136(a) are not applicable to the **TWO MONTH** time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

A Technology Center Director or designee has approved this supplemental examiner's answer by signing below:



**N. EDWARDS**  
PRIMARY EXAMINER



**RENA DYE**  
SUPERVISORY PATENT EXAMINER

*appeal conference -*



**CAROL CHANEY**  
SUPERVISORY PATENT EXAMINER



**MARIAN C. KNODE**  
DIRECTOR  
TECHNOLOGY CENTER 1700